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January 29, 2008

BY ECF AND FACSIMILE

Honorable Laura Taylor Swain
United States District Judge
United States District Court
for the Southern District of New York
500 Pearl Street
New York, New York 10007

I HEREBY ENDORSE

IT IS ORDERED that counsel to whom this Memo
of Understanding is sent is responsible for faxing or
delivering promptly a copy to all counsel
represented parties and filing a certificate of
service within 5 days from the date hereof. Do
not return to Chambers.

Re: D'Arcy Quinn v. Altria Group, Inc., et al., 07-CV 8783 (LTS)

Dear Judge Swain:

We represent plaintiff D'Arcy Quinn in the above-referenced action. We write with respect to plaintiff's deadlines to file papers in opposition to defendants' pending motions to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1).

By Stipulation so ordered on January 8, 2008, defendants represented that they intended to file dispositive motions which would rely upon matters outside of the pleadings, and that they would not oppose plaintiff's conducting appropriate discovery with respect to such motions. The Stipulation further provided that the parties would negotiate mutually agreeable proposed discovery and briefing schedules with respect to the motions and would report on those schedules in the Preliminary Pre-Trial Statement to be filed with the Court by February 8, 2008.

Defendants Philip Morris International, Inc. ("PMI") and Altria Group, Inc. ("Altria") filed motions to dismiss on January 14, 2008 and January 28, 2008 respectively. Both motions rely upon matters outside of the pleadings. Under Local Civil Rule 6.1, the deadlines for plaintiff to oppose PMI's and Altria's motions are January 29, 2008 and February 8, 2008, respectively.

We write to advise the Court that, per the Stipulation, plaintiff and PMI have agreed to adjourn the January 29 deadline and are in the process of negotiating proposed discovery and briefing schedules. We have attempted to contact Altria's counsel with respect to the February 8 deadline for responding to Altria's motion, but have been advised that counsel is traveling. In light of the Stipulation, however, we do not anticipate any dispute over adjournment as to Altria. The parties will report on the proposed discovery and briefing schedules in the February 8 Preliminary Pre-Trial Statement.

Copies ~~mailed~~ faxed to
Chambers of Judge Swain

Plaintiff's Counsel
1-30-08

Honorable Laura T. Swain

January 29, 2008

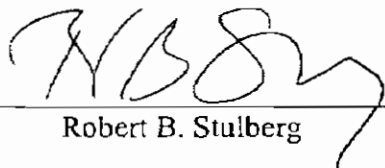
Page 2

For the foregoing reasons, we respectfully request that the January 29 and February 8 deadlines for plaintiff to respond to the motions to dismiss be adjourned, pending the Court's consideration of the parties' February 8 Preliminary Pre-Trial Statement.

The Court's considerations are appreciated.

Respectfully submitted,


BROACH & STULBERG, LLP


Robert B. Stulberg

cc: Shawn Regan, Esq.(by fax and ecf)
Howard Ganz, Esq. (by fax and ecf)

The request is granted.

SO ORDERED.


1/30/2008
LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE